

April 18, 2018

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

RE: Nicodemus Ridge Lots 3 and 4
Forest Conservation Variance
Tracking # 04-18-2714

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 6 Forest Conservation was received by this Department on March 7, 2018. This request proposes to remove or critically impact 13 of 30 specimen trees in order to develop a two of the four lots in the Nicodemus Ridge subdivision. Five (5) of 12 specimen trees would be removed from lot 3, and eight (8) of 18 from lot 4. All of these trees to be removed are within forest. One of the five on lot 3, a 31-inch DBH red oak, is in poor condition; all others on both lots are in fair to good condition.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to develop two existing residential lots that were platted prior to the inception of the Forest Conservation Law. The 13 specimen trees are located in close proximity to the proposed houses or within their septic reserve areas. The location of the houses are limited due to configuration of the existing wells and septic reserve areas, and an existing use in common driveway, thus constraining the layout and necessitating the specimen tree impacts in order to develop each lot with a house. Therefore, full application of the law to the entire property would

deprive the applicant of all beneficial use of the property. Consequently, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to unique circumstances associated with the number and location of the specimen trees relative to the proposed development rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Granting the variance to allow the removal or critical impact to 13 specimen trees to develop a subdivision consistent with its approved plan is consistent with the residential character of the neighborhood and will not alter that character. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that the trees to be impacted are not within the Forest Buffer onsite, and forest retention is proposed contiguous to the FBE on the subject property. Therefore, we find that granting of this variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the removal or critical impact to three specimen trees to develop the platted lots would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to water quality would result; the remaining 17 specimen trees would be protected in Forest Conservation Easement (FCE); and, forest retention has been maximized with the FCE configured in a contiguous fashion with the Forest Buffer Easement onsite and adjacent forest corridor encompassing Liberty Reservoir Watershed Property. Therefore, this criterion has been met.

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Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. A note must be on all plans stating: A variance was granted to the Forest Conservation Law by Baltimore County EPS on April 18, 2018 to allow the removal of 13 specimen trees from existing forest to be mitigated in accordance with a forest conservation plan meeting the goals and objectives of this law.
2. The Forest Conservation Easement and Forest Buffer Easement along with the appropriate Declarations of Protective Covenants shall be recorded by revising the Nicodemus Ridge record plat prior to November 21, 2018.
3. A final forest conservation plan reflecting the conditions of this variance and addressing Section 33-6-110 of the Forest Conservation Law must be approved by EPS and implemented prior to issuance of any grading or building permits.

No specimen tree mitigation is required, as all specimen trees are within forest that will be mitigated in accordance with the aforementioned forest conservation plan.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submission of revised plans and a new variance request.

Please have the property owner sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/ges

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- c. North Camp Wisp Properties, LLC
Ms. Marian Honeczy, Maryland Department of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Property Owners' Signatures

Date

Property Owners' Printed Names